

REMARKS UNDER 37 CFR § 1.111

Formal Matters

Claims 1, 12, 13, 46, 53, 58, 190-192 and 194-217 are pending after entry of the amendments set forth herein.

Claims 1, 12, 13, 46, 53, 58, 190-192 and 194-217 were examined. Claims 1, 12, 13, 46, 53, 58, 190-192 and 194-217 were rejected.

Applicants respectfully request reconsideration of the application in view of the amendments and remarks made herein.

No new matter has been added.

The Office Action

Claims Rejected Under Nonstatutory Double Patenting (U.S. Patent No. 6,743,169)

In the Official Action of October 4, 2007, claims 1, 12-13, 53, 58, 190-192, 194-214 and 216 were rejected on the ground of nonstatutory double patenting over claims 1-4, 6-13, 17, 20-26, and 31-32 of U.S. Patent No. 6,743,169, since the Examiner considered the currently claimed subject matter to be fully disclosed in the patent and covered by the patent since both the application and patent are claiming common subject matter, and the difference between the application claims and the patent claims is that the patent claims include more elements and are thus more specific.

In response to Applicants' assertion that a terminal disclaimer has already been filed in regard to this ground of rejection, the Examiner acknowledged that the terminal disclaimer has been received and is currently pending approval.

In view of the above comments and the terminal disclaimer which has already been filed, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1, 12-13, 53, 58, 190-192, 194-214 and 216 on the ground of nonstatutory double patenting over claims 1-4, 6-13, 17, 20-26, and 31-32 of U.S. Patent No. 6,743,169 as being moot.

Claim Rejected Under Nonstatutory Obviousness-Type Double Patenting (U.S. Patent No. 6,743,169 in view of Vierra et al.)

Claim 46 was rejected on the ground of nonstatutory obviousness-type double patenting over claim 1 of U.S. Patent No. 6,743,169 in view of Vierra et al., U.S. Patent No. 5,749,892.

For at least the reasons provided above, Applicants do not agree with this ground of rejection and do not acquiesce thereto.

In view of the above comments and the terminal disclaimer which has already been filed, the Examiner is respectfully requested to reconsider and withdraw the rejection of claim 46 on the ground of nonstatutory obviousness-type double patenting over claim 1 of U.S. Patent No. 6,743,169 in view of Vierra et al., U.S. Patent No. 5,749,892, as being moot.

Claim Rejected Under 35 U.S.C. Section 102(b) (Green et al.)

Claims 214-217 were rejected under 35 U.S.C. Section 102(e) as being anticipated by Green et al., U.S. Patent No. 5,620,458. The Examiner asserted that Green et al. discloses a device 500 (Figs. 24-27) comprising a shaft member 540 and at least one continuously adjustable contact member comprising a wire 562 connected to the distal end of the shaft member. The Examiner referred to Figs. 24-25 and 27, and the specification at column 7, lines 60-62 as support for these assertions.

Applicants respectfully traverse. Green et al. discloses at column 7, lines 45-47 that arms 562 are formed by cutting a channel 563 in a sheet of resilient material. Accordingly, it is respectfully submitted that the arms 562 of Green et al. are clearly not a wire, contrary to the Examiner's assertion, as a sheet of material is clearly distinct from a wire. Accordingly, it is respectfully submitted that claims 214-215 and 217 are clearly not anticipated by Green et al.

Claim 216 has been amended above to depend from claim 214. Accordingly, it is respectfully submitted that claim 216 is allowable for at least the same reason provided above with regard to claim 214.

In view of the above amendment and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 214-217 under 35 U.S.C. Section 102(e) as being anticipated by Green et al., U.S. Patent No. 5,620,458, as being inappropriate.

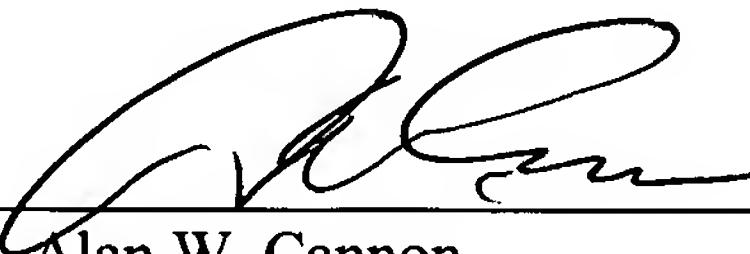
Conclusion

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number GUID-005CON6.

Respectfully submitted,
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Date: 6/10/08

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